

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claims 1 and 13 have been amended for clarity.

The Examiner has rejected claims 1-16 under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention, in that "The steps in those claims can be performed manually without the use of a particular machine. Those claims could be done in a piece of paper, wherein digital signal processing (DSP) theory implemented in software codes, can be used to derive the effective audio frame length by varying lengths F of the audio input frame data; since the audio encoder is described in the specification, page 4, lines 12, and 13 as "an audio encoder (that may be implemented for example as a software component)"."

Applicants submit that while the encoder of the subject invention may be implemented as a software component, the specification also states that the audio encoder may alternatively be implemented as a hardware circuit. Claims 1 and 13, as presently amended, clearly indicate that the (audio) encoder is implemented in hardware. Therefore, Applicants submit that the claims recite a statutory process under 35 U.S.C. 101 that is tied to another statutory category, i.e., a machine.

Applicant believes that this application, containing claims 1-16, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611